

ENTERED

November 17, 2023

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

UNITED STATES OF AMERICA

§

§

VS.

§

CRIMINAL ACTION NO. 5:22-CR-1439

MARSHALL STEVE MERRIMAN

8

ORDER

A federal grand jury charged Defendant with possessing a firearm with a removed, obliterated, or altered serial number, in violation of 18 U.S.C. § 922(k) (Dkt. No. 12). Defendant has moved to dismiss this charge (Dkt. No. 18). He argues that, in light of *New York State Rifle & Pistol Ass’n, Inc. v. Bruen*, 142 S. Ct. 2111 (2022), § 922(k) violates the Second Amendment (*id.*). On January 19, 2023, the Government responded to Defendant’s motion (Dkt. No. 22).

Soon after, the Fifth Circuit decided *United States v. Rahimi*, 61 F.4th 443 (5th Cir. 2023), *cert. granted*, 143 S. Ct. 2688 (2023). In *Rahimi*, the Fifth Circuit held a companion provision—§ 922(g)(8)—was unconstitutional under *Bruen*. *Id.* at 448. Although *Rahimi* did not address the statute before this Court—§ 922(k)—the opinion nonetheless “provid[es] insight into how the circuit will apply *Bruen* to § 922 challenges[.]” *United States v. Samien*, No. 5:22-cr-379, 2023 WL 1980487, at *6 (W.D. Tex. Feb. 10, 2023).

The United States Supreme Court is now reviewing *Rahimi* on appeal and held oral argument on November 7, 2023. In light of these developments, this matter is hereby **STAYED** pending the Supreme Court's decision. The Court **FINDS** that the

ends of justice are served by a stay. *See* 18 U.S.C. § 3161(h)(7)(A). Finally, the current briefing deadlines remain in effect.

It is so **ORDERED**.

SIGNED November 17, 2023.



Marina Garcia Marmolejo
United States District Judge